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BEFORE THE  
BOARD OF VOCATIONAL NURSING  
AND PSYCHIATRIC TECHNICIANS  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Petition for  
Reinstatement Against:

MINNIE R. MYERS-WILLIAMS  
234 W. Adams Blvd., #214  
Los Angeles, CA 90007

OAH No. 2009090430

Vocational Nurse License No.  
VN 106120


Respondent.

**DECISION**

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the  
Board of Vocational Nursing and Psychiatric Technicians as the final Decision in the above-entitled  
matter.

This Decision shall become effective on January 15, 2010.

IT IS SO ORDERED this 16<sup>th</sup> day of December, 2009.

  
John P. Vertido, L.V.N.  
President

**BEFORE THE  
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Petition for Reinstatement  
By:

OAH No. 2009090430

**MINNIE R. MYERS-WILLIAMS,**

Petitioner.

**PROPOSED DECISION**

This matter was heard by Administrative Law Judge Chris Ruiz, Office of Administrative Hearings, on September 16, 2009, in Los Angeles, California.

Minnie R. Myers-Williams (Petitioner or Respondent) represented herself.

Nicolas Sanchez and Helene Swanson, Deputy Attorneys General, represented the Office of the Attorney General, California Department of Justice, pursuant to Business and Professions Code section 1522.

Jurisdictional documents were presented. Testimony was taken and oral argument made. The matter was submitted on September 16, 2009.

**FACTUAL FINDINGS**

1. On December 14, 1981, the Board of Vocational Nursing and Psychiatric Technicians (Board) issued Petitioner a vocational nurse license, number VN 106120.
2. On June 18, 1988, Petitioner's license was revoked because she was self-administering Demerol.
3. In 1999 and 2006, the Board denied Petitioner's Petitions for Reinstatement.
4. The present Petition, filed with the Board on April 29, 2009, requests reinstatement of Petitioner's vocational nurse license.
5. Petitioner is employed at a methadone treatment center. She attends Alcoholic Anonymous and Narcotics Anonymous meetings and has been sober since 2004. Petitioner is a licensed phlebotomist and she would like to obtain her license so that she would be

permitted by her employer to perform "rapid HIV testing." Petitioner submitted a number of letters from her present employer which recommend that Petitioner's license be reinstated. Petitioner also submitted a number of letters from members of the community which attest to her desire to remain sober.

### LEGAL CONCLUSIONS

1. The burden in a petition for reduction of an administrative penalty rests, at all times, with the petitioner. (*Flanzer v. Board of Dental Examiners* (1990) 220 Cal.App.3d 1392, 1398.) The burden of the Petitioner herein is to establish by clear and convincing evidence that she is entitled to the requested relief.

2. Jurisdiction exists for Petitioner to seek reinstatement of her license. Government Code section 11522 provides that a person whose license has been revoked may petition the governing agency for reinstatement, and governs such petitions unless another, more specific, statute contains different provisions. (See also Business and Professions Code section 2878.7.)

3. California Code of Regulations, title 16, section 2522, states:

When considering a) the denial of a license under Section 480 of the Business and Professions Code, b) the suspension or revocation of a license on the ground that a licensee has been convicted of a crime, or c) a petition for reinstatement of a license under Section 2787.7 of the Business and Professions Code, the Board in evaluating the rehabilitation of an individual and his or her present eligibility for a license, will consider the following criteria:

- (1) Nature and severity of the act(s), offense(s), or crime(s) under consideration.
- (2) Actual or potential harm to the public.
- (3) Actual or potential harm to any patient.
- (4) Overall disciplinary record.
- (5) Overall criminal actions taken by any federal, state or local agency or court.
- (6) Prior warnings on record or prior remediation.
- (7) Number and/or variety of current violations.
- (8) Mitigation evidence.

(9) In case of a criminal conviction, compliance with terms of sentence and/or court-ordered probation.

(10) Time passed since the act(s) or offense(s) occurred.

(11) If applicable, evidence of proceedings to dismiss a conviction pursuant to Penal Code section 1203.4.

(12) Cooperation with the Board and other law enforcement or regulatory agencies.

(13) Other rehabilitation evidence.

4. In this case, Petitioner established that she is sufficiently rehabilitated based on the reasons set forth in factual findings 1-4. However, the public will be fully protected only if such reinstatement is on a probationary basis. Government Code section 11522 provides the Board authority to reinstate a license upon appropriate "terms and conditions." Three years probation will be sufficient for the Board to verify Petitioner's continuing willingness to act in a lawful manner and to remain sober and to verify her competency as a vocational nurse in this state.

#### ORDER

**IT IS HEREBY ORDERED** that the Petition for Reinstatement of Minnie R. Myers-Williams is granted. A license shall be issued to Petitioner. Said license shall immediately be revoked, the order of revocation stayed, and Petitioner placed on probation for a period of three years on the following terms and conditions:

1. **OBEY ALL LAWS**

Respondent shall obey all federal, state and local laws, including all statutes and regulations governing the license. Respondent shall submit, in writing, a full and detailed account of any and all violations of the law, including alleged violations, to the Board within five (5) days of occurrence.

To ensure compliance with this condition, respondent shall submit fingerprints through the Department of Justice and Federal Bureau of Investigation within thirty (30) days of the effective date of the decision, unless the Board determines that fingerprints were previously submitted by the respondent to the Board.

Respondent shall also submit to the Board a recent 2" x 2" photograph of himself/herself within thirty (30) days of the effective date of the decision.

If respondent is under a criminal court order, including probation or parole, and the order is violated, it shall be deemed a violation of these probation conditions.

## 2. COMPLIANCE WITH PROBATION PROGRAM

Respondent shall fully comply with the conditions of probation established by the Board and shall cooperate with representatives of the Board in its monitoring and investigation of the respondent's compliance with the Probation Program.

Upon successful completion of probation, the respondent's license will be fully restored.

## 3. SUBMIT WRITTEN REPORTS

Respondent shall submit or cause to be submitted, under penalty of perjury, any written reports, declarations and verification of actions as required by the Board or its representatives. These reports or declarations shall contain statements relative to respondent's compliance with all the conditions of the Board's Program. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

In the first report, respondent shall provide a list of all states and territories where he/she has ever been licensed as a vocational/practical nurse, psychiatric technician, or registered nurse. Respondent shall provide information regarding the status of each license and any change in license status during the period of probation. Respondent shall inform the Board if he/she applies for or obtains a new nursing or psychiatric technician license during the period of probation.

Respondent shall provide a copy of the Board's decision to the regulatory agency in every state and territory in which he/she has applied for or holds a vocational/practical nurse, psychiatric technician and/or registered nurse license.

## 4. NOTIFICATION OF ADDRESS AND TELEPHONE NUMBER CHANGE(S)

Respondent shall notify the Board, in writing, within five (5) days of any change in address or telephone number(s).

Respondent's failure to claim mail sent by the Board may be deemed a violation of these probation conditions.

## 5. NOTIFICATION OF RESIDENCY OR PRACTICE OUTSIDE OF STATE

Respondent shall notify the Board, in writing, within five (5) days, if he/she leaves California to reside or practice in another state. Periods of residency or practice outside of California shall not apply toward a reduction of this probation time period. If respondent resides or practices outside of California, the period of probation shall be automatically extended for

the same time period he/she resides or practices outside of California. The respondent shall provide written notice to the Board within five (5) days of any change of residency or practice.

Respondent shall notify the Board, in writing, within five (5) days, upon his/her return to California.

#### 6. MEETINGS WITH BOARD REPRESENTATIVE(S)

Respondent shall appear in person at meetings as directed by the Board or its designated representatives.

#### 7. NOTIFICATION TO EMPLOYER(S)

When currently employed or applying for employment in any capacity in any health care profession, respondent shall notify his/her employer of the probationary status of respondent's license. This notification to the respondent's current health care employer shall occur no later than the effective date of the Decision. The respondent shall notify any prospective health care employer of his/her probationary status with the Board prior to accepting such employment. At a minimum, this notification shall be accomplished by providing the employer or prospective employer with a copy of the Board's Accusation and Disciplinary Decision.

The Health Care Profession includes, but is not limited to: Licensed Vocational Nurse, Psychiatric Technician, Registered Nurse, Medical Assistant, Paramedic, Emergency Medical Technician, Certified Nursing Assistant, Home Health Aide, and all other ancillary technical health care positions.

Respondent shall cause each health care employer to submit to the Board all performance evaluations and any other employment related reports as required by the Board. Respondent shall notify the Board, in writing, of any difficulty in securing employer reports within five (5) days of such an event.

Respondent shall notify the Board, in writing, within five (5) days of any change in employment status. Respondent shall notify the Board, in writing, if he/she is terminated or separated, regardless of cause, from any nursing or health care related employment with a full explanation of the circumstances surrounding the termination or separation.

#### 8. EMPLOYMENT REQUIREMENTS AND LIMITATIONS

Respondent shall work in his/her licensed capacity in the state of California. This practice shall consist of no less than six (6) continuous months and of no less than twenty (20) hours per week.



Respondent shall not work for a nurses' registry or in any private duty position, a temporary nurse placement agency, as a faculty member in an accredited or approved school of nursing, or as an instructor in a Board approved continuing education course except as approved, in writing, by the Board. Respondent shall work only on a regularly assigned, identified and predetermined work site(s) and shall not work in a float capacity except as approved, in writing, by the Board.

#### 9. SUPERVISION REQUIREMENTS

Before commencing or continuing employment in any health care profession, respondent shall obtain approval from the Board of the supervision provided to the respondent while employed.

Respondent shall not function as a charge nurse (i.e., work in any healthcare setting as the person who oversees or directs licensed vocational nurses, psychiatric technicians, certified nursing assistants or unlicensed assistive personnel) or supervising psychiatric technician during the period of probation except as approved, in writing, by the Board.

#### 10. COMPLETION OF EDUCATIONAL COURSE(S)

Respondent, at his or her own expense, shall enroll and successfully complete a course(s) substantially related to the violation(s) no later than the end of the first year of probation.

The coursework shall be in addition to that required for license renewal. The Board shall notify the respondent of the course content and number of contact hours required. Within thirty (30) days of the Board's written notification of assigned coursework, respondent shall submit a written plan to comply with this requirement. The Board shall approve such plan prior to enrollment in any course of study.

Upon successful completion of the course, respondent shall submit "original" completion certificates to the Board within thirty (30) days of course completion.

#### 11. MAINTENANCE OF VALID LICENSE

Respondent shall, at all times, maintain an active current license with the Board including any period of suspension.

If an initial license must be issued (Statement of Issues) or a license is reinstated, probation shall not commence until a license is issued by the Board. Respondent must complete the licensure process within two (2) years from the effective date of the Board's decision.

Should respondent's license expire, by operation of law or otherwise, upon renewal or reinstatement, respondent's license shall be subject to any and all conditions of this probation not previously satisfied.

## 12. COST RECOVERY REQUIREMENTS

Respondent shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of \$ 0.00.

Respondent shall be permitted to pay these costs in a payment plan approved by the Board with payments to be completed no later than three months prior to the end of the probation period. The filing of bankruptcy by respondent shall not relieve respondent of his/her responsibility to reimburse the Board for its investigation and prosecution costs. Failure to make payments in accordance with any formal agreement entered into with the Board or pursuant to any Decision by the Board shall be considered a violation of probation.

If respondent has not complied with this condition during the probationary period, and respondent presents sufficient documentation of his/her good faith effort to comply with this condition, and if no other conditions have been violated, the Board or its representatives may, upon written request from the respondent, extend the probation period up to one year, without further hearing, in order to comply with this condition. During the extension, all original conditions of probation will apply.

Except as provided above, the Board shall not renew or reinstate the license of any respondent who has failed to pay all the costs as directed in a Decision.

## 13. LICENSE SURRENDER

During probation, if respondent ceases practicing due to retirement, health reasons, or is otherwise unable to satisfy the conditions of probation, respondent may surrender his/her license to the Board. The Board reserves the right to evaluate respondent's request and to exercise its discretion whether to grant the request without further hearing. Upon formal acceptance of the tendered license, respondent will no longer be subject to the conditions of probation.

Surrender of respondent's license shall be considered a disciplinary action and shall become a part of respondent's license history with the Board. A licensee who surrenders his/her license may petition the Board for reinstatement no sooner than the following minimum periods from the effective date of the disciplinary decision for the surrender:

Three (3) years for reinstatement of a license surrendered for any reason other than a mental or physical illness; or one (1) year for a license surrendered for a mental or physical illness.

## 14. VIOLATION OF PROBATION

If respondent violates the conditions of his/her probation, the Board, after giving the respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (denial/revocation/suspension) of the respondent's license. If during probation, an accusation or petition to revoke probation has been filed against the



respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against the respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board.

#### 15. EXAMINATION BY A PHYSICIAN

Within sixty (60) days of the effective date of the Decision, respondent shall submit to a physical examination by a physician of his/her choice who meets minimum criteria established by the Board. The physician must be licensed in California and Board certified in Family Practice, Internal Medicine or a related specialty. The purpose of this examination shall be to determine respondent's ability to perform all professional duties with safety to self and to the public. Respondent shall provide the examining physician with a copy of the Board's Disciplinary Order prior to the examination. The cost of such examination shall be paid by the respondent.

Respondent shall cause the physician to submit to the Board a written medical report in a format acceptable to the Board. This report shall be submitted within ninety (90) days of the effective date of the Decision. If the examining physician finds that respondent is not physically fit to practice or can only practice with restrictions, the examining physician shall notify the Board, in writing within five (5) working days. The Board shall notify the respondent in writing of the examining physician's determination of unfitness to practice and shall order the respondent to cease or restrict licensed activities as a condition of probation.

Respondent shall comply with this condition until the Board is satisfied of respondent's fitness to practice safely and has so notified the respondent. Respondent shall document compliance in the manner required by the Board.

#### 16. PSYCHIATRIC/PSYCHOLOGICAL EVALUATION

Within sixty (60) days of the effective date of the Decision, respondent shall submit to a psychiatric/psychological evaluation. The evaluation shall be performed by a psychiatrist licensed in California and Board certified in psychiatry, or by a clinical psychologist licensed in California. This evaluation shall be for the purpose of determining respondent's current mental, psychological and emotional fitness to perform all professional duties with safety to self and to the public. Respondent shall provide the evaluator with a copy of the Board's Disciplinary Order prior to the evaluation. The cost of such evaluation shall be paid by the respondent.

Respondent shall cause the evaluator to submit to the Board a written report concerning respondent's status and progress as well as such other information as may be requested by the Board. This report shall be submitted in a format acceptable to the Board within ninety (90) days from the effective date of the Decision.

If the evaluator finds that respondent is not psychologically fit to practice safely, or can only practice with restrictions, the evaluator shall notify the Board, in writing, within five (5) working days. The Board shall notify the respondent in writing of the evaluator's determination of unfitness to practice and shall order the respondent to cease or restrict licensed activities as a condition of probation. Respondent shall comply with this condition until the Board is satisfied of respondent's fitness to practice safely and has so notified the respondent. Respondent shall document compliance in the manner required by the Board.

If the evaluator finds that psychotherapy is required, respondent shall participate in a therapeutic program at the Board's discretion. The cost of such therapy shall be paid by the respondent.

#### 17. REHABILITATION PROGRAM

Within thirty (30) days of the effective date of the Decision, respondent shall enter a rehabilitation and monitoring program specified by the Board. Respondent shall successfully complete such treatment contract as may be recommended by the program and approved by the Board. Respondent shall submit written verification of successful completion of such treatment in a format acceptable to the Board within thirty (30) days of completion.

Components of the treatment contract shall be relevant to the violation and to the respondent's current status in recovery or rehabilitation. The components may include, but are not limited to: restrictions on practice and work setting, random bodily fluid testing, abstention from drugs and alcohol, use of work site monitors, participation in chemical dependency rehabilitation programs or groups, psychotherapy, counseling, psychiatric evaluations and other appropriate rehabilitation or monitoring programs. The cost for participation in this program shall be paid by the respondent.

#### 18. CHEMICAL DEPENDENCY SUPPORT & RECOVERY GROUPS

Within five (5) days of the effective date of the Decision, respondent shall begin attendance at a chemical dependency support group (e.g. Alcoholics Anonymous, Narcotics Anonymous, Nurse Support Group). Verified documentation of attendance shall be submitted by the respondent with each written report as required by the Board. Respondent shall continue attendance in such a group for the duration of probation.

#### 19. ABSTAIN FROM CONTROLLED SUBSTANCES

Respondent shall completely abstain from the personal use or possession of controlled substances, as defined in the California Uniform Controlled Substances Act, and dangerous drugs as defined in Section 4021 and 4022 of the Business and Professions Code, except when lawfully prescribed by a licensed practitioner for a bona fide illness.

20. ABSTAIN FROM USE OF ALCOHOL

Respondent shall completely abstain from the use of alcoholic beverages and products containing alcohol.

21. SUBMIT BIOLOGICAL FLUID SAMPLES

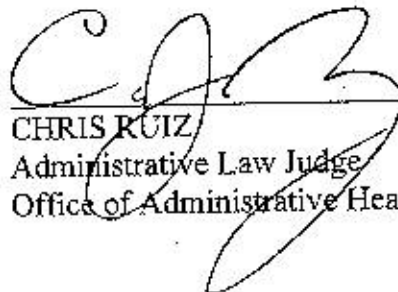
Respondent shall immediately submit to biological fluid testing, at respondent's cost, upon request by the Board or its designee. There will be no confidentiality in test results; positive test results will be immediately reported to the Board and the respondent's current employer.

22. TAKE AND PASS LICENSURE EXAMINATION

Prior to resuming practice, respondent shall take and pass the licensure exam currently required of new applicants within two (2) years from the effective date of the Board's decision. Respondent shall pay the established examination fees.

This probationary period shall not commence until the respondent has successfully passed the licensure examination and a license is issued by the Board.

Dated: October 31, 2009.

  
CHRIS RUIZ  
Administrative Law Judge  
Office of Administrative Hearings